

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KEITH LA-DALE PORTER, # 392940

PLAINTIFF

v.

CAUSE NO. 1:16CV430-LG-RHW

**TROY PETERSON, EVAN HUBBARD,
JOHN RICHARD, HARRISON
COUNTY SHERIFF DEPARTMENT,
and HARRISON COUNTY,
MISSISSIPPI**

DEFENDANTS

ORDER DISMISSING HARRISON COUNTY SHERIFF DEPARTMENT

This case is before the Court *sua sponte* for consideration of partial dismissal. *Pro se* Plaintiff Keith La-Dale Porter is a pretrial detainee at the Harrison County Adult Detention Center, and he brings this action challenging the conditions of his confinement. The Court has considered and liberally construed the pleadings. As set forth below, Defendant Harrison County Sheriff Department is dismissed.

Porter alleges that from July 18, to November 3, 2016, the light in his cell was constantly on. As a result, he contends that he suffered from headaches and sleep deprivation. Allegedly, there were “numerous cells where the lights stayed on 24 [hours] a day, 7 days a week,” and this problem had existed since at least May, 2016. (Aff. 1, ECF No. 5). After filing a grievance in August, he claims he was told by Defendant Sergeant John Richard that “maintenance had corrected as many of the lighting issues as possible,” a computer malfunction was to blame for the remaining lights, and outside help was needed to correct the glitch. (Compl. 5, ECF

No. 1). Because of “the lengthy process of having this” problem fixed, Plaintiff maintains that Richard and Defendant Warden Evan Hubbard gave inmates permission to cover the lights in their cells during “lights out” at night. (*Id.* at 5-6). Nevertheless, according to Porter, neither the County nor the staff provided the inmates with the materials needed to do so. Porter faults Defendant Sheriff Troy Peterson with allowing him to be housed under these conditions. Porter sues Peterson, Hubbard, Richard, the Sheriff’s Department, and Harrison County, alleging cruel and unusual punishment.

However, the Sheriff Department’s capacity to be sued is determined by Mississippi law. Fed. R. Civ. P. 17(b)(3). In Mississippi, a sheriff’s department is not a separate legal entity which may be sued, rather it is an extension of the county. *Brown v. Thompson*, 927 So. 2d 733, 737 (¶12) (Miss. 2006). Therefore, the Court dismisses the Sheriff Department. The allegations against the Sheriff Department will be construed as allegations against the County. The remainder of the case will proceed.

IT IS THEREFORE ORDERED AND ADJUDGED that, for the reasons stated above, Defendant Harrison County Sheriff Department should be and is hereby **DISMISSED**. The remainder of the case will proceed.

SO ORDERED AND ADJUDGED this the 31th day of January, 2017.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE